

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

13

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	
v.)	
)	
TAMMY R. SMITH,)	1:CV-00-1105
Defendant,)	
)	
and)	(Judge Kane)
)	
HURLEY'S SUPER MARKETS, INC.,)	
Garnishee.)	

**FILED
SCRANTON**

NOV 12 2002

PER *[Signature]*
DEPUTY CLERK

ANSWER OF THE GARNISHEE

_____, being duly sworn, deposes and says:
(Affiant)

If Garnishee is an Individual:

That he/she is Garnishee herein doing business in the name of

(State full name and address of business)

If Garnishee is a Partnership:

That he/she is a member of a partnership composed of which Garnishee is a partner.

If Garnishee is a Corporation:

That he/she is the (Official Title) Robert Hurley, Pres. of Garnishee,
HURLEY'S SUPERMARKETS a corporation, organized under the laws of the State of
PA.

On NOV 4, 2002, Garnishee was served with a Writ of Continuing Garnishment. For the pay period in effect on that date:

Yes No

- ✓ 1. Defendant was in my/our employ.
2. Pay period is ✓ weekly, bi-weekly
 semi-monthly, monthly.

11-8-02

Enter date present pay period began.
(Present means the pay period in which
this order and notice of garnishment were
served)

11-14-02

Enter date above pay period ends

3. Enter amount of net wages. Calculate below:

YTD

(a) Gross Pay	\$	<u>3095.93</u>
(b) Federal income tax	\$	<u>63.42</u>
(c) F.I.C.A. income tax	\$	<u>204.35</u>
(d) State income tax	\$	<u>92.98</u>
Total of tax withholdings	\$	<u>90.01 LOCAL</u>
Net Wages	\$	<u>2845.11</u>
(a less total of b,c,d)		

 ✓ 4. Have there been previous garnishments in effect?
If the answers is yes, describe below.

5. The Garnishee has custody, control or possession of the following property (non-earnings), in which the Debtor maintains an interest, as described below:

	<u>Description of Property</u>	<u>Approximate Value</u>	<u>Description of Debtor's Interest in Property</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____

Garnishee anticipates owing to the judgment-debtor in the future, the following amounts:

	<u>Amount</u>	<u>Estimate date or Period Due</u>
1.	\$ _____	_____
2.	\$ _____	_____
3.	\$ _____	_____
4.	\$ _____	_____

(Check the applicable line below if you deny that you hold property subject to this order of garnishment.)

 [The Garnishee makes the following claim of exemption on the part of Defendant:]

[Or has the following objections, defenses, or set-offs to Plaintiff's right to apply Garnishee's indebtedness to Defendant upon Plaintiff's claim:]

[The Garnishee was then in no manner and upon no account indebted or under liability to the Defendant, and that the Garnishee did not have in his/her possession or control any property belonging to the Defendant, or in which the Garnishee has an interest; and is in no manner liable as Garnishee in this action.]

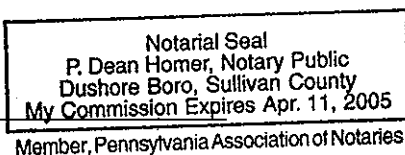
The Garnishee mailed a copy of this answer by first-class mail to (1) the Debtor, _____ at _____ and to (2) J. JUSTIN BLEWITT, JR., Assistant U.S. Attorney, P.O. Box 309, Scranton, Pa 18501.

Robert A. Hawley
Garnishee

Subscribed and sworn to before me this
8 day of November, 2002.

P. Dean Homer
Notary Public
(Seal)

My Commission expires: _____



ATTACHMENT TO ANSWER OF GARNISHEE

The Original Answer must be mailed to:

Clerk, United States District Court
1st Floor, Wm. J. Nealon Federal Building
Scranton, PA 18501

and a copy of this Answer to:

THOMAS A. MARINO
United States Attorney
J. JUSTIN BLEWITT, JR.
Assistant U.S. Attorney
P.O. Box 309
Scranton, Pa 18501

CLAIM FOR EXEMPTION FORM
MAJOR EXEMPTIONS UNDER FEDERAL LAW

I claim that the exemption(s) from garnishment which are checked below apply in this case:

- ☐ 1. Social Security benefits and Supplemental Security income (42 U.S.C. § 407).
- ☐ 2. Veterans' benefits (38 U.S.C. § 3101).
- ☐ 2a. Members of armed services (10 U.S.C. § 1440, 38 U.S.C. § 562).
- ☐ 3. Federal civil service retirement benefits (5 U.S.C. § 8346 and 22 U.S.C. § 4060(c)).
- ☐ 4. Annuities to survivors of federal judges (28 U.S.C. § 376(n)).
- ☐ 5. Longshoremen and Harborworkers Compensation Act (33 U.S.C. § 916).
- ☐ 6. Black lung benefits (30 U.S.C. §§ 931(b)(2)(F) and 932(a)).
- ☐ 6a. Seaman's, master's or fisherman's wages, except for child support or spousal support and maintenance (46 U.S.C.A. §§ 1108-1109(a-c)).

Exemptions listed under 1 through 6 above may not be applicable in child support and alimony cases (42 U.S.C. § 659).

- ☐ 6b. Railroad retirement, pension, unemployment benefits (45 U.S.C. §§ 231(m), 352(e)).
- ☐ 7. Bankruptcy Code (Title 11, United States Code) which generally provides exemptions for:
 - (a) ☐ \$17,425 in equity in a residence.
 - (b) ☐ \$2,775 in equity in a motor vehicle.
 - (c) ☐ \$1,150 in jewelry.
 - (d) ☐ \$9,300 in personal property.
(However, no single item worth more than \$450 can be claimed as exempt)
 - (e) ☐ Property totaling up to \$925 in value, plus up to \$8,725 of any unused amount of the exemption provided in number 11(a) above.
 - (f) ☐ \$1,750 in equity in any implements, professional books, or tools of your trade your dependent's trade.
 - (g) ☐ Any unmaturred life insurance contract you own, other than credit life insurance.
 - (h) ☐ The aggregate value, up to \$9,300.00, of any accrued dividend or interest under, or loan value of, any unmaturred life insurance contract you own, but only if you are the insured or you are a dependant of the insured.
 - (i) ☐ Professionally prescribed health aids for you or your dependents.

- (j)___ Unemployment compensation benefits, local public assistance benefits, disability benefits, illness benefits; and alimony, support, and separate maintenance, to the extent these items are reasonably necessary for your support or the support of your dependants.
- (k)___ A payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for your support or the support of your dependants, subject to the limitations set forth at Title 11 United States Code Section 522(d)(10)(E)(i)-(iii).
- (l)___ Your right to receive, or property that is traceable to,
- an award under a crime victim's reparation law;
 - a payment on account of the wrongful death of an individual of whom you were a dependant, but only to the extent reasonably necessary for your support or the support of your dependants;
 - a payment under a life insurance contract that insured an individual of whom you were a dependant on the date of the insured's death, but only to the extent reasonably necessary for your support or the support of your dependants;
 - a payment, not to exceed \$17,425, on account of personal bodily injury suffered by you or by an individual of whom you are a dependant; however, payment for pain and suffering or payment to compensate actual pecuniary loss are not exempt under this paragraph;
 - a payment in compensation of loss of your future earnings or the future earnings of an individual of whom you are, or were, a dependant, but only to the extent reasonably necessary for your support or the support of your dependants.

___ 8. Compensation for war risk hazards (42 U.S.C. § 1717).

MAJOR EXEMPTIONS UNDER STATE LAW

NOTE: The law of the state where you have been domiciled for at least 180 days governs your rights.

NOTE: If you have selected the Bankruptcy Code exemptions (line 7 above), you may not also claim the state law exemptions listed below.

Fair market value

- | | |
|--|-----|
| ___ 9. Personal Property
(42 Pa. Cons. Stat. Ann.
§§ 8123, 8124, 8125 and 8127). | ___ |
| ___ 10. Partnership Property (15 Pa. Cons.
Stat. Ann. §§8341,8342 | ___ |
| ___ 11. Workers' Compensation (42 Pa. Cons.
Stat. An. §8124 (c)(2)) | ___ |
| ___ 12. Unemployment Compensation (43 Pa.
Stat. Ann. §863) | ___ |

___ 13. Veterans' Benefits (51 Pa. Cons. Stat. Ann. §§20012 and 20098) _____

___ 14. Insurance (42 Pa. Cons. Stat. Ann. §8124 (c)) _____

___ 15. Pensions and Retirement Benefits (42 Pa. Cons. Stat. Ann. §8124; 71 Pa. Cons. Stat. Ann. §5953 and provisions cited in note thereafter) _____

___ 16. Crime Victims' Compensation (71 Pa. Cons. Stat. Ann. §180-7.10) _____

___ 17. Fraternal Benefit Society Benefits (40 Pa. Stat. Ann., §1141-305; _____

The statements made in this claim of settlement to exemptions and request for hearing as to exemption entitlement and fair market value of the property designated are made and declared under penalty of perjury that they are true and correct. I hereby request a court hearing to decide the validity of my claims. Notice of the hearing should be given to me by mail at:

(_____) or telephonically at (_____)
Address Phone no.

Signature of debtor

Date

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,
Plaintiff,

v.

TAMMY R. SMITH,
Defendant,

HURLEY'S SUPER MARKETS, INC.,
Garnishee.

1:CV-00-1105

(Judge Kane)

FILED
SCRANTON

SEP 18 2002

PER

DEPUTY CLERK

WRIT OF CONTINUING GARNISHMENT

Greetings to: HURLEY'S SUPER MARKETS, INC.

An application for a Writ of Garnishment against the property of Tammy R. Smith, Defendant, has been filed with this Court. A judgment has been entered against the above-named defendant in the amount of , plus costs and interest.

You are required by law to answer in writing, under oath, within ten (10) days, whether or not you have in your custody, control or possession, any property owned by the debtor, including non-exempt, disposable earnings.

Please state whether or not you anticipate paying the debtor any future payments and whether such payments are weekly, bi-weekly or monthly.

You must file the original written answer to this writ within ten (10) days of your receipt of this writ with the Clerk, United States District Court, 1st Floor, Wm. J. Nealon Federal Building, Scranton, PA 18503. Additionally, you are required by law to serve a copy of this writ upon the debtor and upon the United States Attorney, P.O. Box 309, Scranton, Pa 18501.

Under the law, there is property which is exempt from this writ of Garnishment. Property which is exempt and which is not subject to this order is listed on the attached Claim for Exemption form.

Pursuant to 15 U.S.C. §1674, Garnishee is prohibited from discharging the defendant from employment by reason of the fact that his earnings have been subject to garnishment.

If you fail to answer this writ or withhold property in accordance with this writ, the United States of America may petition the Court for an order requiring you to appear before the Court. If you fail to appear or do appear and fail to show good cause why you failed to comply with this writ, the Court may enter a judgment against you for the value of the debtor's non-exempt property. It is unlawful to pay or deliver to the defendant any item attached by this writ.

By: *Mary E. D'Andrea*, Deputy Clerk
MARY E. D'ANDREA, CLERK
U.S. District Court

TO: Hurley's Super Markets, Inc.
387 York Avenue
Towanda, PA 18848

INSTRUCTIONS TO THE GARNISHEE

Attached is a Writ of Garnishment requesting that you determine whether or not you have in your possession, custody or control any of the property of the debtor listed therein, or any other property of the debtor's. Title 28, United States Code, Section 3205(c)(E) requires that you file a written Answer to this writ, within 10 days of receipt, with the Court and serve a copy of the Answer upon the debtor and counsel for the United States of America. You are further required to withhold and retain any property in which the debtor has a substantial non-exempt interest.

1. AMOUNT GARNISHED. The principal amount, rate of interest, starting date of interest and costs are set out in the Writ of Garnishment served upon you. The amount garnished consists of all of these.
2. AMOUNT WITHHELD. Under federal law, 15 U.S.C. Section 1673(a), you should withhold each pay period:
 - (a) 25% of disposable earnings each week, or
 - (b) the amount by which disposable earnings for the week exceeds thirty times the federal minimum hourly wage, whichever is less.
3. DISPOSABLE EARNINGS means that part of earning remaining after deduction of any amount required by law to be withheld (such as the amount of deductions for social security taxes and withholding taxes, but not court ordered alimony and child support payments which must be included in "disposable earnings"). 15 U.S.C. Section 1671(b); First National Bank v. Hastv, 415 F. Supp. 170 (E.D. Mich, 1976), affirmed 573 F.2d 1310 (6th Cir.1977).
4. DISBURSEMENT OF WITHHELD AMOUNTS. Each pay period, amounts withheld should be remitted to:

U.S. Attorney's Office
Financial Litigation Unit
Middle District of Pennsylvania
Post Office Box 309
Scranton, PA 18501

Your check to money order should be made payable to "U.S. Department of Justice." Indicate on each remittance the name of the debtor so that proper credit will be given.

IF YOU FAIL TO ANSWER THIS WRIT OR TO WITHHOLD PROPERTY IN ACCORDANCE WITH THE WRIT, THE COURT MAY MAKE YOU LIABLE FOR THAT AMOUNT OF THE DEBTOR'S NON-EXEMPT PROPERTY WHICH YOU FAILED TO WITHHOLD. ADDITIONALLY, YOU MAY BE HELD LIABLE FOR REASONABLE ATTORNEY'S FEE TO THE UNITED STATES AMERICA IF THE UNITED STATES FILES A PETITION TO THE COURT REQUESTING AN EXPLANATION FOR YOUR FAILURE TO COMPLY WITH THIS WRIT.

If you have any additional questions, please call Carroll Terruso, Paralegal Specialist at telephone number (570)-348-2800 or write to: United States Attorney's Office, Financial Litigation Unit, Post Office Box 309, Scranton, PA 18501.